CAN IMPLANTS BE ‘WEAPONS’ UNDER THE LAW?

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WHICH IMPLANTABLE TECHNOLOGIES?

- Taking a broad view of implantable technologies
- Any type of enhancing effect (physical, cognitive, sensory, metabolic, etc.)
- Any technical means (chemical, electronic, etc.)
- (Other than technologies that may be prohibited for other reasons)

- Distinction
- Proportionality
- Superfluous injury or unnecessary suffering
- Weapon reviews

WEAPONS UNDER IHL – RULES AND RESTRICTIONS

- “means and methods”
- “weapons in the widest sense, as well as the way in which they are used”
- "whether the employment of a weapon **for its normal or expected use** would be prohibited under some or all circumstances"
- weapons of all types, and weapon systems
- tactics, operating procedures, etc.

WEAPONS UNDER IHL – WHAT MUST BE REVIEWED?

- are they components in a weapon system?
- do they affect the manner in which a weapon is used?
- do they influence the choice of methods of warfare (tactics)?
- do they affect adherence to the principle of distinction, etc?

WEAPONS UNDER IHL – COULD IMPLANTS BE INCLUDED?

- No strict definition of what constitutes a ‘weapon’
- Stringent restrictions on use of weapons
- Overlap with IHL
- Right to life
- Right to health
- Right to freedom from torture

WEAPONS UNDER INTERNATIONAL HUMAN RIGHTS LAW

CAN IMPLANTS BE WEAPONS?

- Many devices might enliven weapon-related legal obligations
- Range of implant behaviours and effects is unclear
- States should consider legal obligations during development and use